

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ANTHONY WHITEWATER,**

**Defendant.**

**8:16CR195**

**ORDER**

This matter is before the Court on the Defendant's letter, filed as a Motion under 28 U.S.C. § 2255, ECF No. 126. Defendant asserts that his trial counsel was ineffective for failing to raise a void-for-vagueness challenge to the charge in Count II of the Indictment that led to his conviction under 18 U.S.C. § 924(c).

The record in this case shows that the Defendant's conviction is not yet final, because he has pending a petition for writ of certiorari with the United States Supreme Court, filed on March 28, 2018, and placed on the Supreme Court's docket March 30, 2018. ECF No. 124. Accordingly, the Defendant's Motion under 28 U.S.C. § 2255 is premature and will be denied, without prejudice.

IT IS ORDERED:

1. The Defendant's Motion to Vacate under 28 U.S.C. § 2255 is denied; without prejudice, and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 10<sup>th</sup> day of May 2019.

BY THE COURT:

s/Laurie Smith Camp  
Senior United States District Judge